

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2997 of 2000

to

FIRST APPEAL No 2998 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

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DY COLLECTOR & LAND

ACQUISITION & REHABILITATION

Versus

RANBAIBEN NATHUBHAI DECD. THROHEIR JAGUBHAI BHIMBHAI VALA

Appearance:

1. First Appeal No. 2997 of 2000
Mr. R.C.Kodekar Asst. Government Pleader for
Petitioner No. 1-2
MR VIMAL M PATEL for Respondent No. 1
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CORAM : MR.JUSTICE B.C.PATEL
and

Date of decision: 24/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

1. The Dy. Collector and Land Acquisition and Rehabilitation (Irrigation), Junagadh and Executive Engineer, Junagadh Irrigation Scheme Division, Junagadh have preferred these appeals against the common judgment delivered in Land Reference Cases nos. 952/99 and 953/99 on 14.2.2000.

2. The lands in question were sought to be taken in acquisition by issuance of Notification under Sec. 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) on 29.8.88. The lands are situated at village Sarsai of Taluka : Visavadar. The lands were sought to be acquired for Dhrafad Irrigation Scheme. After following the procedure, Notification under Sec. 6 of the Act was issued on 16.3.89. It appears that the claim was made at the rate of Rs.1,700/- per Are, however, the Land Acquisition Officer awarded the amount of Rs.200/- per Are for non-irrigated land, declaring all the land as non-irrigated and Rs.1/-per Are for Kharaba lands. It appears that thereafter Reference came to be filed and the documentary evidence was produced with list. Considering the oral and the documentary evidence, the Reference court awarded compensation at the rate of Rs. 1,047/- per Are considering all the lands as irrigated lands. (Other lands for the said scheme were acquired for which the notification was issued earlier, and the Reference Court awarded the compensation at the rate of Rs. 931/- per Are for irrigated lands), considering 10% increase in price rise for each year figure of Rs. 1,047/- per Are was arrived at.

The matter is not required to be discussed in detail as the Division Bench (Coram : M.H.Kadri and J.R.Vora JJ) on 2.11.99 in the First Appeal nos. 3351/99 to 3390/99 between the acquiring authority and the petitioner himself, after considering the relevant material in para 23 held as under :

"For the foregoing discussion, these First Appeals filed by the State of Gujarat are partly allowed. The common judgment and award of the Reference Court is partly modified and it is hereby held that the claimants-respondents would be entitled to get compensation for their

irrigated lands at the rate of Rs.590/- instead of Rs. 931/- awarded by the Reference Court.....".

The Division Bench deciding the matter was concerned with irrigated as well as non-irrigated lands. Considering the fact that for the same scheme the lands were acquired situated at the same place namely village Sarsai of Taluka Visavadar, the learned advocate for respondents fairly submitted that considering the amount awarded by the Division Bench in First Appeals 3351/ 99 etc. at the rate of Rs.590/- per Are instead of Rs.931/-, in the instant case the amount may be reduced from Rs.1,047/per Are and the benefit of one year and 3 months with regard to the price rise may be given considering 10% price rise for each year. The learned A.G.P. appearing in the matter, after going through the judgment, fairly stated that considering the aforesaid judgment the respondents be paid compensation at the rate of Rs.590/- per Are with 10% price rise for each year which would come to Rs.663/per Are. The award made by the trial court shall stand modified to the aforesaid extent in so far as compensation at Rs. 1,047/- per Are is concerned. The appeals are allowed accordingly.

(B.C.PATEL, J)

(SHARAD D DAVE, J)

srilatha